

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
TracFone Wireless, Inc.'s Petition)	CC Docket No. 96-45
For Designation as an Eligible)	
Telecommunications Carrier in the)	
District of Columbia)	

**REPLY COMMENTS OF THE PUBLIC SERVICE COMMISSION OF THE
DISTRICT OF COLUMBIA**

The Public Service Commission of the District of Columbia ("DC PSC") hereby submits its Reply Comments concerning the Petition filed by TracFone Wireless, Inc. ("TracFone") to be designated as an eligible telecommunications carrier ("ETC") in the District of Columbia.¹ The DC PSC urges the Commission to approve Tracfone's Petition only upon finding that TracFone has complied with all statutory and regulatory requirements as well as the conditions set forth in the Commission's *TracFone Order*.²

On January 18, 2008, TracFone filed its Petition seeking designation as an eligible telecommunications carrier to provide prepaid wireless services to be subsidized by Lifeline funds. TracFone proposes two subscriber plans

¹ *In the Matter of TracFone Wireless's Petition for Designation as an Eligible Telecommunications Carrier in the District of Columbia*, CC Docket No. 96-45, Petition, filed January 18, 2008.

² *In the Matter of the Federal-State Joint Board on Universal Service, Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, FCC 05-165, 20 FCC Red 15095 (2005).

that would be eligible for Lifeline support. TracFone claims that its Lifeline services meet all of the applicable statutory and regulatory requirements.³

In addition to these requirements, the FCC required TracFone to submit a compliance plan outlining six additional steps that it would take to demonstrate eligibility for Lifeline support in the *TracFone Order*. The six conditions included: requiring TracFone to provide its Lifeline customers with 911 and enhanced 911 (“E911”) capability regardless of their activation status or availability of prepaid minutes; providing Lifeline customers with E911-compliant handsets and replacing non-compliant handsets at no charge; complying with the two above conditions as of the date that TracFone provides Lifeline services; obtaining a certification from each Public Safety Answering Point (“PSAP”) where TracFone provides service that TracFone complies with the first condition; requiring customers to self-certify when they receive Lifeline service and annually thereafter that they are the head of household and receive only TracFone’s Lifeline service; and requiring TracFone to establish safeguards to prevent customers from receiving multiple TracFone Lifeline subsidies.⁴ On October 11, 2005, TracFone submitted a compliance plan. The compliance plan proposed some revisions to the conditions in the *TracFone Order*.⁵

³ Petition at 7-13.

⁴ *TracFone Order* at 4-5, ¶ 6.

⁵ *In the Matter of the Federal-State Joint Board on Universal Service, Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, TracFone Wireless, Inc.’s Compliance Plan, filed October 11, 2005.

While the DC PSC supports the goal of increasing participation by eligible customers in the Lifeline program, the DC PSC also seeks to ensure that any ETC designated in the District of Columbia provides high quality reliable services to eligible customers. Because the DC PSC has no jurisdiction over wireless services in the District of Columbia, the DC PSC requests the Commission to carefully evaluate TracFone's petition to ensure that it complies with all statutory and regulatory requirements as well as the terms of the *TracFone Order*. The DC PSC is particularly concerned that the petition may not comply with the following *TracFone Order* conditions: the requirement to provide Lifeline customers with E911 service regardless of activation status and the availability of prepaid minutes; the requirement to satisfy the previous condition as of the date that TracFone provides Lifeline services; the requirement to obtain certification from PSAPs that TracFone complies with the first condition; and the revised eligibility certification and verification requirements.

In its Compliance Plan, TracFone indicates that it intends to comply with all relevant Commission E911 orders, which include a requirement for a customer to be able to place 911 calls even if there are no available minutes.⁶ In its petition, TracFone claims that it will comply with all applicable Commission E911 orders.⁷ However, TracFone does not describe how it will

⁶ Compliance Plan at 4.

⁷ Petition at 9.

ensure that 911 access continues regardless of activation status or minute availability. The DC PSC urges the Commission to require TracFone to provide additional detail before making a determination that TracFone satisfies the first condition.

Since it is unclear as to how TracFone will comply with the first condition of the *TracFone Order*, it is unclear how TracFone will be able to ensure access to 911 service regardless of activation status or minute availability as of the date that TracFone begins to provide Lifeline service. The DC PSC urges the Commission to ensure that TracFone complies with this condition before granting its Petition.

The DC PSC is also concerned about TracFone's proposal to rely on its underlying carriers' certifications to the Commission regarding E911 capability instead of obtaining certification from each PSAP that TracFone provides access to 911 services regardless of activation status or minute availability. In the District of Columbia, there is only one PSAP, the Office of Unified Communications ("OUC"), so it would not be burdensome for TracFone to obtain a certification from OUC. The DC PSC also shares the concerns expressed by the National Emergency Number Association that TracFone's proposed changes to the Commission's PSAP certification requirements would prevent PSAPs from obtaining location information for TracFone customers because PSAPs would not have knowledge that

TracFone is providing service in the PSAPs' regions.⁸ The DC PSC seeks to ensure that the OUC is aware that TracFone is providing Lifeline service in the District of Columbia.

In its Petition, TracFone claims that it will comply with applicable Commission rules regarding certification and verification of customer eligibility for Lifeline services. TracFone also indicates that it will follow the procedures set forth in its July 13, 2005 compliance policy, but does not mention compliance with the Compliance Plan.⁹ In reviewing the July 13, 2005 compliance policy, the Commission notes that it contains several provisions¹⁰ that were rejected by the Commission, such as having retail vendors accept Lifeline applications.¹¹ The DC PSC requests the Commission to clarify the verification and certification procedures that TracFone should use to determine Lifeline eligibility if the Commission grants TracFone's Petition.

For the reasons listed herein, the DC PSC requests that the Commission examine carefully TracFone's Petition to ensure compliance with

⁸ *In the Matter of the Federal-State Joint Board on Universal Service, Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i), TracFone's Plan for Compliance with Conditional Forbearance Order*, CC Docket No. 96-45 and DA 05-2946, Comments of NENA, filed December 12, 2005.

⁹ Petition at 12-13.

¹⁰ *In the Matter of the Federal-State Joint Board on Universal Service, Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Notice of Ex Parte Presentation at 2-3, filed July 13, 2008

¹¹ *TracFone Order* at 10, ¶ 19.

all statutory and regulatory requirements as well as the obligations imposed in the *TracFone Order* before granting the Petition.

The DC PSC appreciates the opportunity to submit Reply Comments in the proceeding.

Respectfully submitted,

/s/
Agnes A. Yates
Chair

/s/
Richard E. Morgan
Commissioner

/s/
Betty Ann Kane
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